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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/828,381

04/20/2004

David Lawrence Phillips

16599-US

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DEERE & COMPANY  
ONE JOHN DEERE PLACE  
MOLINE, IL 61265

EXAMINER

TORRES, ALICIA M

ART UNIT

PAPER NUMBER

3671

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/29/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/828,381	<b>Applicant(s)</b> PHILLIPS, DAVID LAWRENCE	
	<b>Examiner</b> Alicia M. Torres	<b>Art Unit</b> 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 7-13, 15-19 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5, 7-10, 19 and 22 is/are allowed.
- 6) ☒ Claim(s) 11-13 and 15-18 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the pivotably mounted chassis, as per claim 17, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

2. Claim 18 is objected to because of the following informalities: the combination of terms “only” and “at least” leaves unclear whether the cutting unit is pivotable on one axis or more than one axes. Appropriate correction is required.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11, 12, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian et al. 3,731,469 in view of Ronning 1,957,079 and Johnson 3,177,638.

Akgulian et al. discloses an apparatus comprising:

- A ladder type chassis (10) having a left and right rails and a front and a rear end
- A pair of front wheels (12) mounted to the front end of the chassis (10)
- A first row of cutting units (11) mounted to pivotable arms (13) extending from the front end of the chassis (10) so that each cutting unit (11) in the first row is in front of the front axle
- A second row of three cutting units (11) mounted to pivotable arms (16, 44) extending from the chassis (10) so that each cutting unit (11) in the second row is behind the front axle
- A pair of rear wheels (unnumbered, see Figure 1) mounted to the chassis (10) adjacent the rear end of the chassis (10) and behind the second row of cutting units (11)
- The pivotable arms (16, 44) in the second row movable to at least two distinct positions comprising

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- A position raising and rotating two of the cutting units (11) to a full vertical position within the widest track of the wheels (12) so that the arms are pivotable about an axis
- A power supply (17) mounted to the chassis (10) adjacent the rear end.

However, Agkulian et al. fails to disclose:

- a pair of non-driven front wheels mounted to a pair of front axles mounted to the front end of the chassis
- A center cutting unit in the second row positioned between and having a width less than the distance between the left and right rails
- An operator module pivotably mounted to the chassis at least primarily behind the second row of cutting units
- A power supply mounted to the chassis adjacent the rear end and at least primarily behind the operator module and the pair of rear wheels
- Wherein a portion of each rail is under the operator module or power supply, a portion of each rail adjacent the front end of the chassis being uncovered.

Ronning discloses a pair of non-driven front wheels (15) mounted to a pair of front axles mounted to the front end of the chassis and a center cutting unit (D) in the second row positioned between and having a width less than the distance between the left and right rails (56);

Wherein a portion of each rail (56) is under the operator module (14) or power supply (11), a portion of each rail (56) adjacent the front end of the chassis being uncovered.

Johnson discloses a similar apparatus including an operator module (13) pivotably mounted to the chassis (A) at least primarily behind the second row of cutting units (C, C') and a power

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supply (18) mounted to the chassis (A) adjacent the rear end and at least primarily behind the operator module (13) and the pair of rear wheels (12).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the cutting unit of Ronning on the apparatus of Akgulian et al. in order to cut in the space between the first row cutting units.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the power unit of Johnson on the device of Akgulian et al. in order to provide auxiliary power.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian et al., Ronning and Johnson in view of Worthington 1,330,293, as cited by Applicant.

The device is disclosed as applied above. However, the combination fails to disclose the parallel rails being farther apart at the front.

Worthington discloses a similar apparatus wherein the rails (1) are closer at the front.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rail structure of Worthington on the apparatus of Akgulian et al., Ronning and Johnson in order to unite the cutting units.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian et al., Ronning and Johnson as applied to claim 11 above, and further in view of Doepke et al. 3,885,547.

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The apparatus is disclosed as applied above. However, the combination fails to disclose a hood over the power supply having a screened air intake.

Doepke et al. discloses an engine for a lawn mower having a hood (10) and a screened air intake (11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the air intake of Doepke et al. on the device of Akgulian et al., Ronning and Johnson in order to clean the air.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian et al., Ronning and Johnson in view of Gerzanich 4,341,059.

The device is disclosed as applied above. However, the combination fails to disclose wherein the pair of front wheels are non-driven and non-steered.

Gerzanich discloses a similar vehicle wherein the pair of front wheels are non-driven and non-steered.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the non-powered front wheels of Gerzanich on the device of Akgulian et al., Ronning and Johnson in order to provide adequate traction force to the powered wheels.

#### ***Response to Arguments***

8. Applicant's arguments with respect to claim 11 have been considered but are moot in view of the new ground(s) of rejection.

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9. Regarding claims 11-13 and 15-18, the applicant claims that there is no motivation to combine Ronning with Akgulian et al. However, the examiner would like to point out that many of the claimed details deal with location of parts, something that is obvious to one having ordinary skill in the art. Instead of arguing that there is no motivation to combine Ronning with Akgulian et al., the applicant should consider arguing any criticality and/or unexpected results presented by the structure of the invention.

***Allowable Subject Matter***

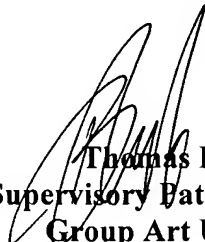
10. Claims 1-3, 5, 7-10, 19 and 22 are allowed.

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 571-272-3600. The fax number for this Group is 571-273-8300.

  
**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
December 22, 2006